

**ASSEMBLY BILL**

**No. 1091**

**Introduced by Assembly Member Negrete McLeod**

February 20, 2003

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An act to amend Sections 104190, 104191, 104192, and 104193 of the Health and Safety Code, relating to disease prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 1091, as introduced, Negrete McLeod. Lyme Disease.

Existing law establishes the Lyme Disease Advisory Committee in the State Department of Health Services, composed of specified members appointed by the Director of Health Services. Existing law requires the department and the committee to perform various functions and duties with respect to, among other things, the dissemination of information regarding Lyme disease to the public and the medical community.

This bill would revise the composition and duties of the Lyme Disease Advisory Committee. It would also revise the duties of the department with respect to Lyme disease prevention and data collection.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares the
- 2 following concerning Lyme disease:
- 3 (1) Despite current efforts, Lyme disease remains a significant
- 4 problem for numerous reasons, including insufficient awareness

1 among practicing physicians of the varying symptoms, diagnostic  
2 tests, and treatment protocols that may be effective in the treatment  
3 of Lyme disease. Of the total number of Lyme disease cases  
4 reported nationwide, 25 percent of those cases are children under  
5 the age of 15 years.

6 (2) The Medical Board of California reports that, in October  
7 2002, the number of licensed state resident physicians was 86,934  
8 while the comparable number for osteopathic physicians was  
9 2,115, a total of over 89,000 licensed physicians. If it is assumed  
10 that 25 percent of these licensed physicians are retired or otherwise  
11 not in active practice, then the total number of licensed practicing  
12 medical practitioners is around 66,750. Informally, Lyme disease  
13 patients have identified fewer than 50 California physicians who  
14 regularly diagnose Lyme disease and prescribe appropriately for  
15 it, less than one-tenth of 1 percent of the total number of licensed  
16 practicing physicians in the state. Thus, there is a very serious  
17 access problem to qualified medical care services for Lyme disease  
18 patients.

19 (3) The Western black-legged tick has been found in 55 of the  
20 58 counties in California, but is most common in the humid coastal  
21 areas and on the western slope of the Sierra Nevada range,  
22 including areas in southern California. While the Western  
23 black-legged tick or nymph may carry and spread the infection of  
24 Lyme disease, it may also carry coinfections, such as Babesiosis  
25 or Ehrlichiosis, among others, which are also reportable diseases.  
26 A coinfection complicates the diagnosis and treatment of Lyme  
27 disease. Thus, while the risk of acquiring Lyme disease varies by  
28 geographic area of exposure, it is a substantial public health hazard  
29 throughout most of the state and particularly for those who must  
30 work in those areas that are endemic with Lyme disease or for those  
31 who camp or hike through them.

32 (4) Lyme-infected adult ticks or nymphs have been identified  
33 in 41 counties in California to date and cases of Lyme disease have  
34 now been reported from 54 counties. However, Mendocino  
35 County is the only county in California that has had an ongoing  
36 assessment for Lyme disease risk to date. In one small rural  
37 community, 37 percent of the residents had definite or probable  
38 Lyme disease while 24 percent were seropositive.

39 (5) The key problems of undertreatment and misdiagnosis are  
40 in part due to the need for further scientific development and

1 understanding of Lyme disease and also due to the need for current  
2 medical education about this infectious disease, which has some  
3 parallels to syphilis in its changing symptomatology. Lyme disease  
4 mimics many other diseases. It is called the second “Great  
5 Imitator” after syphilis. Thus, it can be difficult to diagnose. The  
6 infectious agent, *Borrelia burgdorferi* (Bb), is a spiral shaped  
7 bacterium (spirochete), like syphilis, that can invade any organ in  
8 the body. Patients are often diagnosed as having familiar  
9 conditions, including chronic fatigue, fibromyalgia, multiple  
10 sclerosis, for which there is no “cure,” just palliative remedies, in  
11 place of Lyme disease. Left untreated, Lyme disease invades  
12 multiple organs of the body, including the brain and nervous  
13 system. Victims become increasingly disabled over time. Lyme  
14 disease can be fatal. In later stages of the disease, if antibiotic  
15 therapy is terminated before active clinical symptoms have  
16 cleared, relapse is likely. Prolonged antibiotic treatment by oral,  
17 intramuscular, or intravenous means may be necessary. The  
18 absence of positive laboratory proof is not conclusive proof of the  
19 absence of the disease.

20 (6) According to United States Centers for Disease Control and  
21 Prevention (CDC) statistics, the reported number of Lyme disease  
22 cases reached a record level of 17,730 cases in 2001, an increase  
23 of 87 percent over the previous decade. The increase in reporting  
24 is a reflection of the improved reporting standards, the national  
25 application of those standards, increased awareness, and the  
26 increased incidence of Lyme disease. Lyme disease is now a  
27 reportable disease in all 50 states. The CDC states that Lyme  
28 disease accounts for more than 95 percent of vector-borne illness  
29 in the United States. Even so, the CDC believes that only one in  
30 10 cases is actually reported. Stated otherwise, the CDC is saying  
31 that their surveillance criteria do not recognize or include 90  
32 percent of Lyme disease patients.

33 (7) It is the intent of the Legislature that accurate information  
34 on tick-borne illness be included in the curricula of all state  
35 medical, pharmacy, veterinary, and nursing schools, and of all  
36 continuing medical education courses for health care practitioners  
37 and school nurses. Physician education is the key to more  
38 accessible and better health care.

39 (b) The Legislature finds and declares all of the following with  
40 respect to the Lyme Disease Advisory Committee (LDAC):

(1) The enactment of Senate Bill 1115 (Ch. 668, Stats. 1999) established the LDAC and an information program in order to publicize Lyme disease, a bacterial infection, and address this major and increasing public health hazard in California.

(2) The creation of this committee gave encouragement to Lyme disease patients and their families and it has been broadly favored in the Lyme disease community.

(3) The statute specified that five member representatives would serve on the committee, but did not limit the committee to that number. There are currently 10 members on the LDAC who serve at the pleasure of the Director of the State Department of Health Services.

(4) While these members serve without compensation, the current law provides that members may be reimbursed for travel and necessary expenses incurred in the performance of their duties. Given the current shortfall in the State Budget, it is the intent of the Legislature to limit travel reimbursement to travel costs incurred to attend committee meetings, if essential for a member's attendance, but not to exceed \$2500 per year through the year 2006.

(5) Since the creation of the LDAC is viewed as a valuable asset and forum by the Lyme disease community, it is the intent of the Legislature to establish terms of office for members of the committee to assure its continuity and provide added stability.

(6) For the committee to proceed in its formulation of constructive solutions to the debilitation caused by Lyme disease, it is essential that it be composed of individuals with the best scientific, professional, and patient expertise possible. Therefore, it is the intent of the Legislature to set forth the expertise required of committee members and to require that only those meeting these levels of expertise may continue to serve on the committee, and all individuals who are appointed to fill vacancies must also possess the specified expertise.

(7) Enacting differing expertise requirements concerning the committee members will assure a diversity of talent to address the public health problems of Lyme disease. To the extent feasible, a reasonable geographic diversity among members should be sought as well.

SEC. 2. Section 104190 of the Health and Safety Code is amended to read:

1 104190. As used in this article the following definitions  
2 apply:

3 (a) “Disease” means Lyme disease recognized by the presence  
4 of the spirochete (*borrelia burgdorferi*), a spiral-shaped bacterium,  
5 in the human body, *or coinfection with tick-borne diseases, such*  
6 *as Babesiosis and Ehrlichiosis.*

7 (b) “Lyme Disease Support Network” means the groups  
8 organized through hospitals and volunteer organizations to  
9 counsel and provide support to those individuals who have  
10 contracted the disease.

11 SEC. 3. Section 104191 of the Health and Safety Code is  
12 amended to read:

13 104191. (a) There is hereby created in the ~~state~~ department  
14 the Lyme Disease Advisory Committee composed of, but not  
15 limited to, the following *nine* members:

16 (1) ~~One from who is a member of the board of directors of the~~  
17 ~~Lyme Disease Resource Center. An alternative board member~~  
18 ~~from the Lyme Disease Resource Center may attend in place of this~~  
19 ~~member if the member is unable to attend due to illness.~~

20 ~~(2) One from the Lyme Disease Support Network.~~

21 ~~(3) One from the California Medical Association.~~

22 ~~(4) One county public health official designated by the State~~  
23 ~~Department of Health Services.~~

24 ~~(5) One from the department.~~

25 ~~(b) Members shall be appointed by, and serve at the pleasure of,~~  
26 ~~the director.~~

27 ~~(c) Members of the committee shall serve without~~  
28 ~~compensation, but may be reimbursed for travel and necessary~~  
29 ~~expenses incurred in the performance of their duties on the~~  
30 ~~committee.~~

31 (2) *Three who are Lyme disease patients, with a preference for*  
32 *the following distribution:*

33 (A) *One from a Lyme disease support group who is the*  
34 *coordinator of a patient support group in northern California.*

35 (B) *One from a Lyme disease support group who is the*  
36 *coordinator of a patient support group in southern California.*

37 (C) *One who contracted Lyme disease as an occupational*  
38 *injury and who is covered by workers’ compensation.*

39 (3) *Two from the California Medical Association who are*  
40 *practicing physicians who are knowledgeable of, and whose*

1 *practice includes the treatment of, both early- and late-stage Lyme*  
2 *disease. These physicians shall be from different geographic areas*  
3 *of the state.*

4 *(4) One local health officer, preferably from a Lyme disease*  
5 *endemic county.*

6 *(5) One who is a university or research scientist, preferably one*  
7 *with acknowledged expertise of the entomology of the western*  
8 *black-legged tick.*

9 *(6) One who is a university immunology or research scientist,*  
10 *preferably one with acknowledged expertise in spirochetes and*  
11 *related infectious diseases.*

12 *(7) The department shall also designate a member of its Vector*  
13 *Borne Disease Section or administration to serve ex officio on the*  
14 *LDAC.*

15 *(b) Members of the committee shall be appointed by the*  
16 *director. In making these appointments, the director shall consider*  
17 *recommendations forwarded by the Lyme Disease Resource*  
18 *Center.*

19 *(c) Members of the committee shall serve without*  
20 *compensation, but after January 1, 2006, may be reimbursed for*  
21 *travel and necessary expenses incurred in the performance of their*  
22 *duties on the committee. In the interim, annual travel expense*  
23 *reimbursement to all committee members may not exceed \$2,500.*

24 *(d) The Lyme Disease Advisory Committee shall meet no less*  
25 *than three times a year and the committee may, from its own*  
26 *membership, elect its own chair.*

27 *(e) On an annual basis, the committee shall conduct an*  
28 *assessment of its membership and recommend any needed changes*  
29 *in composition to the director. The director shall make*  
30 *appointments to fill vacancies as they occur.*

31 *(f) (1) To facilitate a cohesive working relationship among*  
32 *committee members and provide added stability to the committee's*  
33 *composition, each current and new member meeting the*  
34 *specifications detailed in subdivision (a) shall be eligible to serve*  
35 *a three-year term on or after January 1, 2004.*

36 *(2) During the year commencing with January 1, 2006, the*  
37 *committee shall establish a rotational designation to begin*  
38 *January 1, 2007, for one-third of its membership to be replaced*  
39 *annually by new three-year term members appointed by the*  
40 *director to fill vacated positions.*

(3) *Of the three members designated by the committee to rotate commencing January 1, 2007, and in subsequent years, if one of those members is considered by the committee to have made an exceptional contribution to the committee's work, and he or she has expertise that is difficult to replace, the committee may request that the director reappoint that member to a new three-year term.*

(g) *In order to facilitate accomplishment of the committee's activities using existing resources of the department, the committee may consult with or advise department staff regarding the prioritization of Lyme disease-related work, or the division of Lyme disease-related work between the department and, on a volunteer basis, individual committee members.*

(h) *The meetings of the committee shall be publicly announced at least one month prior to a meeting, and all meetings shall be open to the public.*

(i) *In order to assure accurate minutes, both the formal part of the meeting and subsequent discussion with persons in the audience shall be recorded, and all substantive input shall be part of the minutes of the meeting. The minutes of each meeting shall be sent to all committee members for review and approval within six weeks of the meeting.*

(j) *On a voluntary basis, the committee may encourage the formation of a subgroup among its members to develop proposed solutions for a specific problem aspect of Lyme disease on the members' own time.*

SEC. 4. Section 104193 of the Health and Safety Code is amended to read:

104193. The department shall do all of the following:

(a) Establish a Lyme disease information program that provides educational materials and information services on Lyme disease to the general public and the medical community. The Lyme disease information program shall provide information on all of the following:

(1) The disease in general, including its symptoms.

(2) Activities that increase one's risk of contracting the disease.

(3) ~~The~~ *If and when a safe and effective vaccine is developed, use of vaccines to prevent the disease.*

(4) The ways to protect oneself from contracting the disease, including the use of protective clothing and tick ~~repellants~~ *repellents, such as an acaricide or pesticide sprayed on clothing*

1 *before being worn. Protective clothing includes light-colored long*  
2 *pants and long sleeves.*

3 ~~(b) Provide detailed information regarding Lyme disease and~~  
4 ~~its treatment to physicians and surgeons in affected areas. Provide~~  
5 *detailed but broad and inclusive information regarding Lyme*  
6 *disease, its varied and common symptoms, and its treatment to*  
7 *physicians and surgeons and other health care providers, such as*  
8 *nurse practitioners, in affected areas, including information*  
9 *concerning the use of both oral and intravenous antibiotics, and*  
10 *other evidence-based effective treatments, as they are recognized*  
11 *and publicly available. The department may fulfill this*  
12 *requirement by providing the information to professional*  
13 *associations representing these providers. If the department*  
14 *provides the information to professional associations, the*  
15 *department shall request that these professional associations make*  
16 *the information available to association members who request the*  
17 *information.*

18 (c) Identify those segments of the population that are especially  
19 at risk of contracting Lyme disease and may provide workshops,  
20 with detailed information on the disease in those areas or  
21 communities, ~~if recommended~~ *considering recommendations for*  
22 *these workshops by the Lyme Disease Advisory Committee.*

23 (d) Provide information to the Occupational Safety and Health  
24 Standards Board about risk factors for exposure to Lyme disease.  
25 ~~The Occupational Safety and Health Standards Board may~~  
26 ~~determine which employees should be required to receive the~~  
27 ~~vaccine as a condition of employment, in order to reduce the~~  
28 ~~potential liability of employers and protect the health of~~  
29 ~~employees.~~

30 (e) *With the recommendation of the Lyme Disease Advisory*  
31 *Committee, and to the extent that departmental resources allow,*  
32 *consider the potential of new diagnostic and treatment procedures*  
33 *that have scientific foundation, particularly those that may be*  
34 *effective for the later stages of Lyme disease.*

35 (f) *Given that Lyme disease and its coinfections are emerging*  
36 *diseases and are not yet fully understood, the department shall not*  
37 *adopt rigid diagnostic or treatment limitations.*

38 (g) *In collaboration with interested counties, communities,*  
39 *research scientists, health care providers, or members of the Lyme*  
40 *Disease Advisory Committee, the committee shall encourage the*

- 1 *conduct of research and the funding of research to identify the risk*
- 2 *of Lyme disease in counties or areas of California where Lyme*
- 3 *disease is considered to be endemic.*
- 4 *(h) Encourage the use of integrated pest management to*
- 5 *control and reduce tick populations.*

